

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

DS17/3\*

1 March 1991

Limited Distribution

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### CANADA - IMPORT, DISTRIBUTION AND SALE OF CERTAIN ALCOHOLIC DRINKS BY PROVINCIAL MARKETING AGENCIES

#### RECOURSE TO ARTICLE XXIII:2 BY THE UNITED STATES (DS17/2)

##### Communication from the United States

At the Council meeting on 6 February 1991, the following text was referred to by the representative of the United States. It is being circulated at the request of that delegation.

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The Government of the United States has seen no indication that the Government of Canada will take meaningful steps in the foreseeable future to modify its practices concerning the import, distribution and sale of brewed beer in order to bring them into compliance with the General Agreement. Indeed, as we noted previously, not only has Canada failed to bring into compliance with the General Agreement the practices identified in the 1988 Liquor Boards Panel report, but some provincial liquor boards have instituted new practices since the adoption of the 1988 report that appear to be inconsistent with Canada's obligations under the General Agreement. These practices -- which include the so-called non-discriminatory reference price recently instituted in Ontario, restrictive cost-of-service differentials applied in various provinces, and new discriminatory markups on draft beer applied in British Columbia -- have been identified for the Government of Canada prior to this meeting.

The Government of Canada has argued previously that it would bring its practices into compliance with the General Agreement as a result of its negotiations with the European Community. It is our understanding that these negotiations cover only a portion of the Canadian practices found by the 1988 Liquor Boards Panel to be inconsistent with Canada's obligations under the General Agreement. Accordingly, we have expressed our concern that no agreement arising from these negotiations could satisfy Canada's obligations.

In view of (1) the repeated objections of Canada at prior meetings of this Council to the United States' request for Council affirmance of our rights with respect to the 1988 Liquor Boards Panel report, (2) the implementation of new restrictive practices in Canada since 1988, and (3) the inability of the United States and Canada to effect a satisfactory

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\* Previously issued as Spec(91)7.

adjustment to the matter through consultations, the United States requested at the December 1990 Session of the CONTRACTING PARTIES that, pursuant to Article XXIII:2 of the General Agreement, the CONTRACTING PARTIES establish a panel to determine whether benefits accruing to the United States under the General Agreement are nullified or impaired as a result of practices maintained by Canadian marketing agencies with respect to the import, distribution and sale of beer, including those practices identified in the 1988 Liquor Boards Panel report.

The Canadian representative stated at that time that his Government was not ready to agree to the establishment of a panel. The United States Government has provided to the Canadian Government certain information requested, and the Canadian Government has now had the opportunity to consult internally with provincial governments.

Therefore, the United States Government requests the establishment of a panel at this meeting, and trusts that the Government of Canada will adhere to the provisions of the Uruguay Round mid-term review and permit the dispute settlement process to move forward.